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Defense Rests in B-26 Trial As CIA Denies Involvement

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By Joseph Higgins

Special to The Washington Post

BUFFALO, Oct. 11—~~Draw~~

yers for two men accused of smuggling B-26 bombers to Portugal rested their cases this afternoon in the fourth week of a Federal District Court trial of the case. The judge's charge to the jury is set for Thursday.

Just before the two defense lawyers rested their cases, U.S. Attorney John T. Curtin elicited testimony from the top lawyer of the Central Intelligence Agency that the CIA had no part in ferrying the bombers.

Edwin Marger of Miami Beach, Fla., one of the defense counsel, has maintained the CIA secretly approved of the export because the Portuguese were going to use the bombers against Communist-led rebels in Portuguese Africa.

"Did your investigation reveal that the CIA in no way helped the flight of these aircraft from the U.S.?" Curtin asked.

"That is correct," said CIA General Counsel Lawrence R. Houston.

Houston first took the stand last Friday, bringing with him the CIA's file of four memos on the bomber case. One of the memos showed that the CIA received notice of the bomber exports a week before the first bomber crossed the border near here in June 1965.

CIA Passed On Data

Houston testified the CIA had no jurisdiction in the case and sent the information on to agencies which it thought would be interested.

Today Curtin told the court that Houston had brought about 20 other CIA documents with him, all dealing with developments in the case after the defendants were arrested in September of 1965.

On trial are Henri M. F. de Montmarin, 58, a

Paris businessman accused of ordering 20 World War II type attack bombers for delivery to Portugal, and John R. Hawke, 28, a Fort Lauderdale, Fla., pilot accused of flying the craft overseas. They are charged with conspiring to violate the Munitions Control Act which makes it illegal to export certain weapons of war without special State Department permission.

Judge John O. Henderson examined the latest CIA papers in his chambers for 90 minutes before refusing to turn them over to Marger on the grounds they were "irrelevant and immaterial." Said the judge, "The CIA yarn of involvement in this case is pure theory."

For Hawke's defense, Marger caused 11 witnesses to be subpoenaed at Government expense. Edward Brodsky, of New York, attorney for deMontmarin, called only one witness, a Boeing Airplane Co. official who testified to previous dealings with deMontmarin. Brodsky has maintained that deMontmarin expected a missing defendant in the case, Gregory R. Board, to obtain export licenses for the aircraft.

FAA Witness

Among rebuttal witnesses called by Curtin was John B. Newell, a Federal Aviation Agency employee at the Washington National Airport. Newell testified he investigated when Hawke flew a B-26 over the White House in June 1965.

Marger has contended that the flight through the prohibited zone, which resulted in no official action being taken against Hawke, proved that the Government had no intention of stopping the B-26 flights.

However, Newell testified he closed the file on the violation after Hawke explained to him that he had engine trouble coming into the air-

port. "We found that Hawke took on 53 gallons of oil after landing, an excessive amount," Newell said. "So we closed our file because the pilot had an emergency," he said.

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